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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/830,592	08/13/2001	Jess Paul Fuller	V0005/7097	9457

28120 7590 11/25/2002

ROPES & GRAY
ONE INTERNATIONAL PLACE
BOSTON, MA 02110-2624

EXAMINER

NAFF, DAVID M

ART UNIT	PAPER NUMBER
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1651

DATE MAILED: 11/25/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09830,592

Applicant(s)

Fuller et al

Examiner

Kraft

Group Art Unit

1657

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 8/13/01
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 1 1; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-39, 41 + 43-161 is/are pending in the application.
- ☐ Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☐ Claim(s) _____ is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☒ Claim(s) 1-39, 41 + 43-161 are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☒ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) _____.
- ☒ received in this national stage application from the International Bureau (PCT Rule 1 7.2(a)).
- *Certified copies not received: _____.

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☒ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

Office Action Summary

The preliminary amendment of 8/13/01 has been entered. The amendment amended the specification, canceled claims 40 and 42, and amended claims 4-7, 9-11, 15, 18-20, 25, 32, 34, 37-39, 41, 43, 48-50, 53, 54, 58, 60, 64, 66, 73-77, 81, 82, 87-89, 94, 95, 100, 103, 106-108, 111, 113, 115, 118, 120, 126, 127, 129, 131, 133, 135, 137, 140, 145, 146, 148, 151, 153, 154, and 159-161.

Claims in the application are 1-39, 41 and 43-161.

Election/Restriction

Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1-39, 41 and 43, drawn to a method of making a silicone rubber having a structure for growth of cells or tissue by adding and removing a filler, to a silicone rubber product from the method and to a biomedical device comprising the silicone rubber, classified in class 435, subclass 180.

II. Claims 44-69, drawn to a culture chamber having a gas-permeable wall and a textured interior growth surface, to an apparatus containing the chamber, and to using the chamber for cell culture, classified in class 435, subclass 383.

III. Claims 70-77, drawn to a well for use in culturing microbiological material having a gas-permeable wall and a well interior surface textured to increase surface area and enhance cell adhesion, classified in class 435, subclass 29.

IV. Claims 78-82, drawn to an implant device comprising a cell support having a coating with a textured surface to promote

anchorage of cells and ingrowth of tissue, classified in class 424, subclass 423.

5 V. Claims 83-89, drawn to a substrate for growth of skin grafts in vitro containing a flexible membrane having a textured surface, and to a skin graft grown on the surface, classified in class 435, subclass 395.

10 VI. Claims 90-100, drawn to a tissue support for use in culturing tissue or cellular agglomerates containing a material having pores that promote cell attachment and anchorage and oxygen supply to tissue, classified in class 435, subclass 325.

VII. Claims 101-115, drawn to an artificial implant having pores that promote cell attachment and anchorage and oxygen supply, and which can be used as a cartilage implant or vascular graft, classified in class 424, subclass 424.

15 VIII. Claims 116-122, drawn to a cell implant having a porous material for retention of cells and a protective means to shield cells from immune attack, classified in class 424, subclass 93.7.

20 IX. Claims 123-127, drawn to a drug delivery system having pores impregnated with a drug, classified in class 424, subclass 486.

X. Claims 128-137, drawn to a filtration media containing porous silicone rubber for use in separations, classified in class 435, subclass 308.1.

25 XI. Claims 138-142, drawn to a cell cryopreservation system having a porous material for absorbing a cell culture and a container

for storage of liquid nitrogen, classified in class 435,
subclass 307.1.

XII. Claims 143-149, drawn to an electrode comprising a porous
material having electrically conductive particles dispersed
therein, classified in class 435, subclass 287.1.

XIII. Claims 150-156, drawn to a wound dressing having a first layer
of porous gel and a second layer of carrier gel, classified in
class 424, subclass 445.

XIV. Claims 157-161, drawn to a clinical swab having a porous
material increasing the surface area of the swab and promoting
oxygen transfer to the swab, classified in class 435, subclass
309.1.

The inventions are distinct, each from the other because:

Inventions I-XIV each require a different method, structure, function,
and/or result such that each invention involves a different inventive
concept and special technical feature, and each invention can be used
without performing any of the other inventions. The inventive concept
and special technical feature of I is preparing a silicone rubber by a
specific method, of II is a culture chamber having a particular structure
and function, of III is a well having a particular structure and
function, of IV is an implant having a particular structure and function,
of V is a substrate having a particular structure and function, of VI is
a tissue support having a particular structure and function, of VII is an
artificial implant having a particular structure and function, of VIII is
a cell implant having a particular structure and function, of IX is a

drug delivery system having a particular structure and function, of X is a filtration media having a particular structure and function, of XI is a cell cryopreservation system having a particular structure and function, of XII is an electrode having a particular structure and function, of XIII is a wound dressing having a particular structure and function, and of XIV is a clinical swab having a particular structure and function. Each invention is different such that each can be carried out without practicing the inventive concept and special technical feature of any other invention.

10 Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David M. Naff whose telephone number is (703) 308-0520. The examiner can normally be reached on

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Monday-Thursday and every other Friday from about 8:30 AM to about 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, a message can be left on voice mail.


- 5 If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mike Wityshyn, can be reached at telephone number (703) 308-4743.

The fax phone number is (703) 872-9306 before final rejection or (703) 872-9307 after final rejection.

- 10 Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0196.

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DMN
11/22/02


DAVID M. NAFF
PRIMARY EXAMINER
ART UNIT 12657